

### **REMARKS**

Applicants respectfully request reconsideration and continued examination of this application in view of the amendment and the following remarks. Claims 1-6 and 8-31 are pending in this application.

#### **1. Status of the Claims**

Claims 1, 10, 20 and 30 were amended to clarify the invention. Support for the amendment can be found in the title of the application, for example. Claim 1 was amended to delete subject matter to overcome a § 112 rejection. Claims 5, 6, 18, 28 and 29 were amended to correct a verb tense. Claim 7 was canceled.

#### **2. 35 U.S.C. § 112 Rejection**

Claims 1-9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because there was no antecedent basis for "said channels" in claim 1. "Said channels" has been deleted by amendment from claim 1. Applicant submits that the § 112 rejection should be withdrawn.

#### **3. 35 U.S.C. § 103(a) Rejections**

Claims 1, 2, 4-15, 18-25 and 28-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,707,792 to Mabrey et al. ("Mabrey") in view of U.S. Patent No. 5,636,463 to Sharon et al. ("Sharon"). Claims 17 and 27 were rejected as being unpatentable over Mabrey in view of Sharon and further in view of U.S. Patent No. 6,178,678 to Stoddard ("Stoddard").

Claims 1-16, 18-26 and 28-30 were rejected as being unpatentable over Sharon in view of U.S. Patent No. 3,419,978 to Ostrand ("Ostrand"). Claims 17 and 27 were rejected as being unpatentable over Sharon in view of Ostrand and further in view of Stoddard.

**4. The rejection of independent claims 1, 10, 20 and 30 based on Sharon and Ostrand should be withdrawn.**

Sharon is deficient because it does not disclose, teach or suggest a frameless display module and “a self-supporting, at least substantially translucent panel” to which retention members are secured. Sharon discloses an adjustable “menu board 10 [which] includes a frame 12, having a generally rectangular shape, including a top member 14, a bottom member 16 and a pair of side members 18a and 18b.” Col. 3, Ins. 10-15. Retention members 36 are mounted onto rear leg 32 of side members 18a and 18b, not onto a panel as alleged by the Examiner. As the Examiner has conceded, Sharon fails to disclose a self-supporting, at least substantially translucent panel between a light source and the display members. Sharon also fails to provide any means other than frame 12 for maintaining retention members 36 in “fixed relation and arrayed in first and second opposed vertical columns that are horizontally spaced apart” as claimed. Thus Sharon teaches the need for a frame and teaches away from a frameless display module.

Ostrand does not remedy the deficiencies of Sharon. In particular, Ostrand does not disclose, teach or suggest a frameless display module. Ostrand discloses an outer frame 18 having four corner braces 60 and backing plate 56. Backing plate 56 provides “structural support for the outer frame.” Col. 3, Ins. 2-3. Thus, Ostrand also teaches away from a frameless device.

Indeed, further review of Ostrand shows that backing plate 56 cannot be a substitute for top member 51, side members 52 and 54, and bottom member 53 of outer frame 18. For example, FIGS. 2 and 4 show indicia bearing means 20 being held by continuous channel 44 of all four members of frame 18. Furthermore, top and bottom members of outer frame 18 are used to support and hold inner frame 22 by top set screw 76 and pins 74. Col. 4, Ins. 18-21. Thus, Ostrand teaches away from a frameless display module. Therefore, independent claims 1, 10, 20 and 30 are patentable over Sharon in view of Ostrand.

**5. The rejection of claims 1, 10, 20 and 30 based on Mabrey and Sharon should be withdrawn**

Mabrey fails to disclose “a plurality of opposed, horizontally disposed divider members positioned over said panel and each of said divider members being individually removably held in place by opposed retention members.” Instead it discloses overlapping film strips 100 which are held in alignment by studs 102 and pressed in place by a covering sheet of glass or plexiglass. Col. 7, Ins. 38-41.

Although Sharon may disclose the required removable disposed divider members, there is no motivation to combine Mabrey with Sharon to arrive at the claimed invention, contrary to the Examiner’s statement that it would have been obvious “to replace the columns and thin film display members disclosed by Mabrey with the retention members, divider members and display members disclosed by Sharon, in order to provide a more rugged construction.” The Examiner’s position is without foundation. There is no indication in the cited references that Mabrey’s method of holding display members is deficient. Thus, one having skill in the art would not be motivated to “fix” Mabrey.

There is also no indication that Sharon’s method of holding film strips is more rugged than Mabrey’s. Consequently ruggedness is not a motivation to combine Mabrey with Sharon. Therefore, there is no motivation to combine the Mabrey with Sharon. Hence, the rejection of independent claims 1, 10, 20 and 30 over Mabrey in view of Sharon is improper.

**6. Stoddard cannot be combined with other art in the rejections of claims 1, 10, 20 and 30**

The Examiner has correctly not cited Stoddard as a primary or secondary reference in any rejections. Stoddard discloses a sign 10 with permanent flanges 18. The sign is not backlit. It has no housing which could hold a lighting source. See, e.g., FIG. 5 which discloses that the menu board is hanging from a fascia. The menu board is available in a variety of colors. Col. 5, ln. 66 – col. 6, ln. 3. There is no disclosure that any portion of the menu board can be substantially translucent or transparent.

Moreover, a substantially translucent back panel for backlighting would be highly undesirable because the sign would have a displeasing and uneven appearance detracting from the information displayed. In particular, the illumination of an enlarged graphics display 62 would be highly uneven due to hook and loop fastening members or double-sided adhesive tape 64, see col. 5, lns. 9-15, and permanent flanges 18. Furthermore, Stoddard discloses in FIG. 7 an indicia bearing panel which can be folded back upon itself to display a desired number or character. See col. 5, lns. 53-65. Such a folding is incompatible with an illuminated display device because the hidden numbers or characters would cast shadows.

Consequently, Stoddard cannot be a primary reference because the principle of operation of Stoddard would be changed. Furthermore, Stoddard cannot remedy the deficiencies of Sharon and Mabrey. Stoddard does not disclose or suggest a substantially translucent panel necessary to remedy the deficiency of Sharon. In addition, Stoddard does not disclose or suggest removable horizontally disposed divider members necessary to remedy the deficiency of Mabrey.

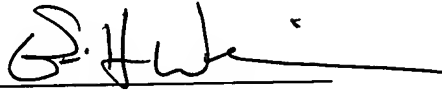
**7. Claims 3, 16, 26 and 31 are patentable over Mabrey in view of Sharon**

The Examiner correctly did not reject claims 3, 16, and 26 over Mabrey in view of Sharon. Claim 31 is new and like claims 3, 16 and 26 recites the "panel is transparent." Mabrey teaches a diffusion plate 108 in FIG. 10. Diffusion plates are by definition not transparent because a transparent plate would not diffuse light. Thus, Mabrey teaches away from a transparent panel. Consequently, claims 3, 16, 26 and 31 are patentable over Mabrey in view of Sharon.

**CONCLUSION**

In view of the foregoing, all of the rejections have been overcome and claims 1-6 and 8-31 are allowable. An early indication of allowance is solicited.

Respectfully submitted,

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Dated: April 17, 2006

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